REMARKS

A. Introduction

The remarks herein are responsive to the non-final Office Action, mailed on April 8, 2009. Applicant thanks the Examiners for the telephonic Examiner interview conducted on June 17, 2009. Applicant thanks the Examiner for allowing Claims 1-11, 44-47, 50-52, and 60-64. Applicant has made some minor corrections to Claims 1 and 60. Claims 34-37, 48, 53-59, 65-80 were pending, and these pending claims stand rejected. Applicant has amended independent claims 34, 65, 74, and 80 and dependent claims 47, 54-57, 59, 66-67 and 75. Applicant has added Claims 81-89. Applicant has cancelled Claims 48, 68, and 79. Applicant respectfully submits that the claims are in condition for allowance.

B. Amendment to the Claims

To expedite prosecution of this case, applicant has amended Claims 1, 34, 47, 54-57, 59, 60, 65-67, 74, 75, and 80. Support for these claim amendments may be found at least in paragraphs [0043], [0044], [0050], [0084], [0085], [0086], and [0103]. Accordingly, Applicant submits that no new matter has been entered by way of the claim amendments.

C. Claim Rejection Under 35 U.S.C. § 102(e)

Claims 34-37, 48, 53-59, 65-73 are rejected under 35 U.S.C. § 102(e) as anticipated by US. Patent Publication No. 2002/0178441 to Hashimoto. Applicant submits that Hashimoto does not anticipate or render obvious the pending claims, each claim taken as a whole.

1.   With reference to Claim 34, Applicant respectfully submits that Hashimoto does not teach or disclose, among other things, "storing, using the communications device, the unique event identifier and the at least one user option associated with the broadcast segment in a memory of the communications device for a period of time following the broadcast of the broadcast segment, the communications device configured to allow a user to select the at least one user option after the broadcast of the broadcast segment."

From a complete reading of Hashimoto, it is clear that the viewer is passive during the broadcast and not able to make a selection during the broadcast. In fact, Hashimoto teaches away from presenting user options during or subsequent to the broadcast. Instead, the client terminal

logs the viewer and automatically reports audience information during the broadcast without further input from the viewer. *See* Hashimoto at p. 3, paragraph [0036] ("audience ratings...are uploaded...by running the predetermined client software"). While Hashimoto discloses that "characteristic parameters" are considered for the audience survey, these "characteristic parameters [are] **already entered** by the user viewing/listening to the program" before the program is broadcast. *See* Hashimoto p. 3, paragraph [0026] (emphasis added). Hashimoto further discloses that the "preliminary processing" described in FIG. 5, wherein characteristic parameters are entered by the users, "is processing involved before actually carrying out the audience rating survey" and occurs before the program is broadcast. *See* Hashimoto p. 4, paragraphs [0056], [0057] and [0059]. Accordingly, Hashimoto does not teach or disclose at least, "storing, using the communications device, the unique event identifier and the at least one user option associated with the broadcast segment in a memory of the communications device for a period of time following the broadcast of the broadcast segment, the communications device configured to allow a user to select the at least one user option after the broadcast of the broadcast segment."

Therefore, Applicant respectfully submits that Claim 34 is allowable at least for the reasons set forth above as well as for the additional unique combination of features disclosed therein. Claims 35-37, 53-58, and 82 depend from Claim 34, and therefore Applicant respectfully submits that these claims are allowable for at least the same reasons as discussed above for Claim 34. Further, Claims 35-37, 53-58, and 82 are allowable for the additional unique combination of features disclosed therein.

2. With reference to Claim 65, Applicant respectfully submits that Hashimoto does not teach or disclose, among other things, "receiving at least one data packet sent by a user device in response to the broadcast segment, wherein the user device stored the at least one identifier for a period of time during the broadcast and at least for some time subsequent to the broadcast of the broadcast segment, the user device further configured to allow a user to select at least one user option during the period of time, further wherein the user device automatically generates the at least one data packet, and further wherein an identity of a broadcaster of the broadcast segment can be determined using at least a portion of the at least one data packet," for at least the reasons set for above.

Therefore, Applicant respectfully submits that Claim 65 is allowable at least for the reasons set forth above as well as for the additional unique combination of features disclosed therein. Claims 66, 67, 69, 70, and 87 depend from Claim 65, and therefore Applicant respectfully submits that these claims are allowable for at least the same reasons as discussed above for Claim 34. Further, Claims 66, 67, 69, 70, and 87 are allowable for the additional unique combination of features disclosed therein.

D. Claim Rejection Under 35 U.S.C. § 103(a)

Claims 74-80 are rejected under 35 U.S.C. § 103(a) as unpatentable over Hashimoto in view of US. Patent No. 6,928,423 to Yamanaka. Applicant submits that Hashimoto and Yamanaka, either alone or in combination, do not anticipate or render obvious the pending claims, each claim taken as a whole.

1. With reference to Claim 74, Applicant respectfully submits that Hashimoto does not teach or disclose, among other things, "receiving at least one data packet sent by a user device in response to the broadcast segment, wherein the user device stored the unique event identifier for a period of time subsequent to the broadcast of the broadcast segment, the user device further configured to allow a user to select the unique event identifier subsequent to the broadcast of the broadcast segment and, further wherein an identity of a broadcaster of the broadcast segment can be determined using at least a portion of the data packet," for at least the reasons set forth above.

The Office Action, dated April 08, 2008, states that "a unique event identifier" reads on the "program identification information" disclosed in Yamanaka (*see* Final Office Action at page 8); however, the foregoing is a misunderstanding of Applicant's unique event identifier. From a complete reading of Yamanaka, it is clear the "program identification information" disclosed therein is used to "arrange a **program** to be broadcasted" and is not used to identify, among other things, advertisements. *See* Yamanaka Col. 5: 20-41 (emphasis added). Accordingly, Yamanaka does not teach or disclose, among other things, "determining a unique event identifier corresponding to a specific instance of the broadcast segment, wherein broadcasting a broadcast comprises at least the broadcast segment."

Further, Applicant respectfully submits that Yamanaka does not teach or disclose, among other things, "receiving at least one data packet sent by a user device in response to the broadcast segment, wherein the user device stored the unique event identifier for a period of time subsequent to the broadcast of the broadcast segment, the user device further configured to allow a user to select the unique event identifier subsequent to the broadcast of the broadcast segment and, further wherein an identity of a broadcaster of the broadcast segment can be determined using at least a portion of the data packet."

Yamanaka teaches a music-on-demand system that allows users to purchase music played during a televised music program. *See* Yamanaka Col. 4:42-59. The music is "repeatedly transmitted during" the music program on audio channels associated with the program. *See* Yamanaka Col. 12:37-40. Music is downloaded from the audio channels during the broadcast. *See* Yamanaka Col. 17: 7-11. Specific music is available during the "time unit for which a certain musical-piece line-up is used," but new music replaces the music in the audio channels in a following time unit, making purchase of a previously played song after the broadcast impossible. *See* Yamanaka, Col. 25-29. As the Yamanaka system does not allow purchases of songs after the broadcast of the television program, there is no need for and Yamanaka does not teach or disclose that a user can select "program identification information" subsequent to the broadcast. Accordingly, Yamanaka does not teach or disclose, among other things, "receiving at least one data packet sent by a user device in response to the broadcast segment, wherein the user device stored the unique event identifier for a period of time subsequent to the broadcast of the broadcast segment, the user device further configured to allow a user to select the unique event identifier subsequent to the broadcast of the broadcast segment and, further wherein an identity of a broadcaster of the broadcast segment can be determined using at least a portion of the data packet."

Therefore, Applicant respectfully submits that Claim 74 is allowable at least for the reasons set forth above as well as for the additional unique combination of features disclosed therein. Claims 75-78 and 88 depend from Claim 74, and therefore Applicant respectfully submits that these claims are allowable for at least the same reasons as discussed above for Claim 74. Further, Claims 75-78 and 88 are allowable for the additional unique combination of features disclosed therein.

2.   With reference to Claim 80, Applicant respectfully submits that Hashimoto does not teach or disclose, among other things, "transmitting at least the data packet in the data stream, wherein an identity of a broadcaster of the broadcast segment can be determined using at least a portion of the data packet, wherein a user device receiving the transmission of the data packet can extract and store the unique event identifier for a period of time subsequent to the transmitting of the broadcast segment, the user device further configured to allow a user to select the unique event identifier subsequent to the transmission of the broadcast segment," for at least the reasons set forth above.

Additionally, Applicant respectfully submits that Yamanaka does not teach at least "determining the unique event identifier that corresponds to the specific instance of the broadcast segment, wherein broadcasting a broadcast comprises at least the broadcast segment," for at least the reasons set forth above.

Furthermore, Yamanaka does not teach at least "transmitting at least the data packet in the data stream, wherein an identity of a broadcaster of the broadcast segment can be determined using at least a portion of the data packet, wherein a user device receiving the transmission of the data packet can extract and store the unique event identifier for a period of time during and subsequent to the transmitting of the broadcast segment, the user device further configured to allow a user to select the unique event identifier during the period of time," for at least the reasons set forth above.

Therefore, Applicant respectfully submits that Claim 80 is allowable at least for the reasons set forth above as well as for the additional unique combination of features disclosed therein. Claim 89 depends from Claim 80, and therefore Applicant respectfully submits that this claim is allowable for at least the same reasons as discussed above for Claim 80. Further, Claim 89 is allowable for the additional unique combination of features disclosed therein.

E.   Conclusion

Applicant respectfully submits that the claims are in condition for allowance. Furthermore, any remarks in support of patentability of one claim should not be imputed to any other claim, even if similar terminology is used. Any remarks referring to only a portion of a claim should not be understood to base patentability on that portion or that the limitation

discussed is essential or critical; rather, patentability must rest on each claim taken as a whole. Applicant respectfully traverses each of the Examiner's rejections and each of the Examiner's assertions regarding what the prior art shows or teaches, even if not expressly discussed herein. Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, no acquiescence, disclaimer or estoppel is intended or should be implied thereby. Applicant is not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made only to expedite prosecution of the present application and are without prejudice to the presentation or assertion, in the future, of claims relating to the same or similar subject matter. Applicants may not have presented in all cases, arguments concerning whether the applied references render the claims anticipated or obvious, and Applicants reserve the right to later submit additional arguments of patentability. Applicant also reserves the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that Applicant has made any disclaimers or disavowals of any subject matter supported by the present application. Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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